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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 91**

**[Docket No. FAA-2007-29305; Amdt. No. 91-334]**

**RIN 2120-AI92**

**Automatic Dependent Surveillance-Broadcast (ADS-B) Out Performance Requirements To Support Air Traffic Control (ATC) Service; Technical Amendment**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The FAA is correcting a final rule published on May 28, 2010. In that rule, the FAA amended its regulations by adding equipage requirements and performance standards for Automatic Dependent Surveillance—Broadcast (ADS-B) Out avionics on aircraft operating in Classes A, B, and C airspace, as well as other specified classes of airspace within the U.S. National Airspace System (NAS). This document corrects errors in regulatory provisions addressing ADS-B Out equipment and use.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this action, contact Robert F. Nichols, Jr., Surveillance Services Group Manager, AJM-23, Air Traffic Organization, Federal Aviation Administration, 600 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-0629; e-mail [Robert.nichols@faa.gov](mailto:Robert.nichols@faa.gov).

For legal questions concerning this action, contact Lorelei Peter, Office of the Chief Counsel, AGC-200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone 202-267-3073; email [Lorelei.Peter@faa.gov](mailto:Lorelei.Peter@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Good Cause for Immediate Adoption Without Prior Notice**

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 et seq.) authorizes agencies to dispense with notice and comment procedures for rules when the agency for “good cause” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking.

Section 553(d)(3) of the Administrative Procedure Act requires that agencies publish a rule not less than 30 days before its effective date, except as otherwise provided by the agency for good cause found and published with the rule.

This document is correcting an error that is in 14 CFR 91.225, ADS-B Out equipment and use. This correction will not impose any additional restrictions on the persons affected by these regulations. Furthermore, any additional delay in making the regulations correct would be contrary to the public interest. Accordingly, the FAA finds that (i) public comment on these standards prior to promulgation is unnecessary, and (ii) good cause exists to make this rule effective in less than 30 days.

##### **Background**

On May 28, 2010, the FAA published a final rule entitled, “Automatic Dependent Surveillance—Broadcast Out Performance Requirements To Support Air Traffic Control Service” (75 FR 30160).

In that final rule, the FAA established § 91.225, which provides the ADS-B equipment requirements necessary to operate in certain classes of airspace effective January 1, 2020. Under paragraph (a)(1) of that section and in order to operate an aircraft in Class A airspace, an aircraft must have installed equipment that "meets the requirements of TSO-C166b." Under paragraph (b)(1) of that section, in order to operate an aircraft below 18,000 feet MSL and in identified airspace described subsequently in § 91.225, an aircraft must be equipped with equipment that "meets the requirements of TSO-C166b; or TSO-C154c\* \* \*". In reviewing these paragraphs, the FAA notes that the regulatory text implies that the equipment must meet all the requirements of the referenced TSOs. As the ADS-B Out rule is a performance-based rule, it was not the FAA's intent to arguably limit operators to only install equipment marked with a TSO in accordance with 14 CFR part 21, subpart O. The FAA's intent was to permit equipment that meets the performance requirements set forth in the referenced TSOs. Evidence of that intent is found in the Notice of Proposed Rulemaking (NPRM) for this rule. In the NPRM, the FAA proposed in § 91.225(a)(1) and (c)(1) that the equipment installed "Meets the performance requirements in TSO-C-166a" (72 FR 56947, 56971). The inadvertent removal of the word "performance" in the paragraphs implementing these provisions in the final rule was in error and resulted in confusion as to whether the regulation permits other than equipment marked with a TSO, provided that equipment met the specified performance requirements.

#### Technical Amendment

In order to address any confusion and clarify the equipage requirements permitted under this rule, the FAA is amending § 91.225 to insert text specifying the necessary performance requirements.

Because the changes in this technical amendment result in no substantive change, we find good cause exists under 5 U.S.C. 553(d)(3) to make the amendment effective in less than 30 days.

## **List of Subjects in 14 CFR part 91**

Air traffic control, Aircraft, Airports, Aviation safety.

### **The Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations as follows:

## **PART 91—GENERAL OPERATING AND FLIGHT RULES**

1. The authority citation for part 91 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 1155, 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506-46507, 47122, 47508, 47528-47531, 47534, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

2. In § 91.225, revise paragraphs (a) and (b) to read as follows:

### **§91.225 Automatic Dependent Surveillance-Broadcast (ADS-B) Out equipment and use.**

(a) After January 1, 2020, and unless otherwise authorized by ATC, no person may operate an aircraft in Class A airspace unless the aircraft has equipment installed that—

(1) Meets the performance requirements in TSO-C166b, Extended Squitter Automatic Dependent Surveillance-Broadcast (ADS-B) and Traffic Information Service-Broadcast (TIS-B) Equipment Operating on the Radio Frequency of 1090 Megahertz (MHz); and

(2) Meets the requirements of §91.227.

(b) After January 1, 2020, and unless otherwise authorized by ATC, no person may operate an aircraft below 18,000 feet MSL and in airspace described in paragraph (d) of this section unless the aircraft has equipment installed that—

(1) Meets the performance requirements in—

(i) TSO-C166b; or

(ii) TSO-C154c, Universal Access Transceiver (UAT) Automatic Dependent Surveillance-Broadcast (ADS-B) Equipment Operating on the Frequency of 978 MHz;

(2) Meets the requirements of §91.227.

\* \* \* \* \*

Issued under authority of 49 U.S.C. 106(f) and in Washington, DC, on February 4, 2015.

Lirio Liu

Director, Office of Rulemaking.

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